

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

JOSE CALDERON,
Charging Party

HRB CASE NO. 0160172

-v-

FINAL AGENCY DECISION

RELENTLESS BUILDERS,
Respondent

Charging Party, Jose Calderon (Calderon), filed a complaint with the Department of Labor and Industry (Department) alleging discrimination in employment on the basis of disability. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Calderon's allegations that Respondent, Relentless Builders, discriminated against Calderon. The Department issued a Notice of Dismissal. Calderon filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on September 23, 2016. No oral argument was requested for this hearing.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to file a complaint in district court, in the district where the alleged violation occurred, and seek appropriate relief. *Section 49-2-511(3)(a), MCA*. If a charging party fails to commence a civil action within 90 days, the claims are time barred. *Id.*

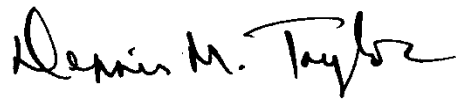
Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Sections 2-4-702 and 49-2-511(3)(b), MCA*. This review must be requested within 30 days of the date of this order. A party must promptly serve copies of

a petition for judicial review upon the Human Rights Commission and all parties of record.

Section 2-4-702(2), MCA.

IT IS HEREBY ORDERED, that Jose Calderon's objection is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against Relentless Builders.

DATED this 14th day of October.

A handwritten signature in black ink, reading "Dennis M. Taylor". The signature is written in a cursive, flowing style with a horizontal line extending from the end of the name.

Dennis M. Taylor, Chair
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 14th day of October.

BRYAN L. SPOON
SPOON, CORDON, BALLEW P.C.
P.O. BOX 8869
MISSOULA, MT 59807-8869

TIMOTHY C. KELLY
KELLY LAW OFFICE
P.O. BOX 65
EMIGRANT, MT 59027

ROSS GILMORE
RELENTLESS BUILDERS
988 YELLOWSTONE AVENUE
BOZEMAN, MT 59718



Annah Howard, Legal Secretary
Montana Human Rights Bureau